

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

DATATERN, INC.

Plaintiff,

v.

STAPLES, INC., et al.,

Defendants.

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Civil Action No. 2:10-cv-00133-TJW-CE

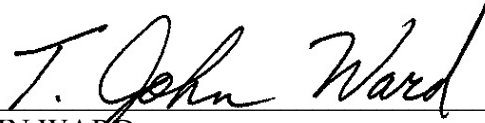
JURY TRIAL DEMANDED

ORDER OF DISMISSAL WITH PREJUDICE

In consideration of the parties' Stipulated Motion for Dismissal of all claims with prejudice and all counterclaims as moot asserted between Plaintiff DataTern, Inc. and Defendants Capital One Financial Corporation; Capital One Bank (USA), National Association; Capital One, National Association; and Capital One Services, Inc. (collectively, the "Capital One Defendants"), the Stipulated Motion for Dismissal is GRANTED, and it is ORDERED, ADJUDGED, AND DECREED that all claims asserted in this suit between Plaintiff and the Capital One Defendants are hereby dismissed with prejudice and all counterclaims asserted in this suit between Plaintiff and the Capital One Defendants are dismissed as moot, subject to the terms of that certain agreement entitled "SETTLEMENT AND LICENSE AGREEMENT" dated November 15, 2010.

It is further ORDERED that all attorneys' fees and costs are to be borne by the party that incurred them.

SIGNED this 22nd day of November, 2010.

A handwritten signature in black ink, reading "T. John Ward". The signature is written in a cursive style with a large, stylized "T" and "W".

T. JOHN WARD
UNITED STATES DISTRICT JUDGE